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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,904	02/08/2001	Kenji Soga	Q63103	5846

7590

06/30/2004

SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3202

EXAMINER

BLOUNT, STEVEN

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 06/30/2004

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/778,904

Applicant(s)

SOGA, KENJI

Examiner

Steven Blount

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2.4</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 – 4 and 7 – 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 6,657,965 to Shaffer et al.

With regard to claim 1, Shaffer teaches a system of nodes through which an optimum route is chosen (col 3 lines 42+) wherein it is determined if sufficient available bandwidth exists on each communication link on the optimum route to accommodate a new connection. See col 3 lines 63+. Although the units which perform this function are not explicitly labeled as “accommodation” units, one of ordinary skill in the art would recognize that the “enhanced” portion of the enhanced router mentioned in col 6, line 23 is an obvious equivalent of this.

With regard to claim 2, in col 3 line 63 it is determined if sufficient bandwidth is available.

With regard to claim 3, in col 3 line 67, alternate routes of lower priority are mentioned.

With regard to claim 4, see how “one of the end enhanced routers” reserves a path on the lower priority connection in col 4 line 18.

Art Unit: 2661

3. Claims 5 – 6 and 11 – 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 6,657,965 to Shaffer et al as applied above, and further in view of U.S. patent 6,262,974 to Chevalier et al.

With regard to claim 5, Shaffer et al teaches the invention as described above, but does not teach retaining a “preliminary band”. This is taught in Chevalier et al. See col 9 lines 35+: “The common bandwidth is the bandwidth reserved by connection in excess of its nominal bandwidth when a bandwidth increase is performed to satisfy a temporary need for additional bandwidth”.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have reserved additional bandwidth in the “enhanced router(s)” of Shaffer et al in light of the teachings of Chevalier et al in order to provide a “surplus reservoir” of bandwidth for times of heavy congestion (see col 9 line 37 of Chevalier et al).

With regard to claim 6, see the discussion of the additional bandwidth mentioned above.

With regard to claims 7 – 12, see the rejection of the apparatus above, where all of the method step elements are discussed.

Remarks

4. The examiner requests clarification of the following point: On page 10, line 16, the examiner notes that an additional 10 mebabytes is added to the 5 in the “accommodation route R1” to make a total of 15. However, it is noted that there is only 5 available in R2, as stated in line 5 of page 10, and it is not apparent that the extra bandwidth is coming from any other channels.

Application/Control Number: 09/778,904

Page 4

Art Unit: 2661

5. Examiner Steven Blount may be reached at 703-305-0319 Monday through Friday between the hours of 9:00 and 5:30.


Ajit Patel
Primary Examiner

SB

6/3/04